



Crl.O.P.No.17594 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2022

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Crl.O.P.No.17594 of 2021

and

Crl.M.P.No.9666 of 2021

Kiruthika

...Petitioner

Vs.

1.The Inspector of Police,
Sathyamangalam Police Station,
Sathyamangalam, Erode District.
(Crime No.398 of 2021)

2.A.Thenmozhi

...Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records in Crime No.398 of 2021 on the file of the 1st respondent police and quash the same.

For Petitioner : Mr. N.K. Arulmuruganandham

For 1st Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

This Criminal Original Petition is filed to call for the records pertaining to FIR in Crime No.398 of 2021 on the file of first respondent-police and quash the same.

2. The facts of the case which led to the registration of FIR is that on 09.08.2021, the petitioner along with other accused had trespassed into the property belonging to the second respondent and dragged her and her daughters out of their shed and dismantled the shed. On the above allegations, the case was registered in Crime No.398 of 2021, for the offences under Sections 147, 294(b), 447, 341, 427 and 506(i) IPC.

3. The learned counsel for the petitioner submitted that the petitioner/A6 is a youngster who was not involved in any offence and she was nowhere near the place of occurrence; the studies of the petitioner also affected because of this case; there is a delay in lodging the FIR, for which, no plausible explanation has been given; the complaint at its face value does



not make out a *prima-facie* case against the petitioner and the allegations are so absurd and improbable; the complaint has been given due to some private or personal grudge and hence, the FIR should be quashed.

4. Heard, the learned Additional Public Prosecutor for the first respondent-police.

5. On perusal of the complaint, it is seen that the second respondent has alleged by naming the accused including the petitioner that the accused came along with 42 henchman and trespassed into her lands and dragged the second respondent and her daughters and they dismantled the shed where she was living and set it on fire. The allegations are very serious in nature and it is not a case where the complaint does not disclose any material fact to make out a case against the petitioner and others for the offences under Sections 147, 292(b), 447, 341, 427 and 506(i) IPC. The second respondent and her daughters were said to have been put under constant threat by the accused and others and they also camped at the nearby land to endanger the life of the second respondent. Only if the investigation



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is allowed to be done on the averments made in the complaint, the real facts will come to light.

6. Since the petitioner is said to be a member of the unlawful assembly, which came to place of the second respondent, she is arrayed as an accused. Though, it is stated by the petitioner that the case has been registered with some malicious intention that can be elaborated only during the trial. On the face it, *prima-facie* case is made out against the accused including the petitioner.

7. The powers of the Court under Section 482 Cr.P.C., has to be exercised only in rare cases. In this regard, it is appropriate to refer the judgment of the Hon'ble Supreme Court held in ***State of Haryana and others Vs. Bhajan lal and others*** reported in ***1992 Supp(1) SCC 335***, as shown under:

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the



accused.

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(2) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(3) where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(4) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(5) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the



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accused;

(6) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the Institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(7) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge”

8. When the complaint makes out a well grounded case, on which, the first respondent-police is bound to investigate, the FIR cannot be quashed by invoking Section 482 Cr.P.C. However, it is obligatory on the part of first respondent-police to complete the investigation and submit a final report within a specific time frame.



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9. In the result, the Criminal Original Petition is dismissed and the first respondent is directed to file final report within a period of two months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed.

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AT
Index:yes/No
Speaking order / Non speaking order

To
1.The Inspector of Police,
Sathyamangalam Police Station,
Sathyamangalam, Erode District.

2.The Public Prosecutor,
High Court of Madras.



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R.N.MANJULA,J.

AT

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